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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/346,375	07/01/1999	ROBERT CLEMENT	2170.00019	2343

23552 7590 06/23/2003

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EXAMINER

ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 06/23/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/346,375

Applicant(s)

CLEMENT ET AL.

Examiner

Maria Elve

Art Unit

1725

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____


Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: Applicant's response does not put the application in condition for allowance. Applicant argues that 35 USC 101 rejection should be withdrawn because co-pending application 09/184,186 does not teach a light delivery system. The examiner respectfully disagrees because it is known in the art that conventional pulsed electrical gas discharges typically are used for pumping lasers, which is functionally the same as the light energy delivery system. In addition, applicant argues that a pulsed event is not disclosed in the claims. The examiner respectfully disagrees because pulsed events are disclosed in co-pending instant claims. Further, applicant traverses the 35 USC 103 rejection, stating that Burkart et al. does not teach a light delivery system, that Gofuku et al. does not teach a pulsed laser, or that the references do not teach the use of a flash lamp. The examiner respectfully points out that Burkart et al. teaches the use of infrared radiation and furthermore, unobvious cannot be established by attacking the reference individually when the rejection is based on a combination of references. In re Novak 16 USPQ 2d 2041, 2043 (Fed. Cir., BPAI 1989); In re Merck & Co. 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986); In re Keller 208 USPQ 871 (CCPA 1981); Ex parte Varga 189 USPQ 204; Ex parte Campbell 172 USPQ 91 In re Scheckler 168 USPQ 716 (CCPA 1971); In re Young 159 USPQ 725; In re Lyons 150 USPQ 741. Applicant argues that Gofuku does not teach a pulsed laser. It is known that typically lasers are pulsed and Muncheryan disclosed a pulsed laser and furthermore, the rejection is made using a combination of references and unobvious cannot be demonstrated by attacking the references individually (see above for cites). Applicant also argues that the references do not teach a flash lamp. The examiner respectfully disagrees because it is known that flash lamps are an integral component of a laser and thus functionally, the same as a laser system. .


M. ALEXANDRA ELVE
PRIMARY EXAMINER